



SINO MANUFACTURING SOLUTIONS LIMITED

TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS

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1. INTERPRETATION

1.1 In these Conditions, the following definitions shall apply:

Business Day means a day (other than a Saturday, Sunday or public holiday) when banks in the City of London are open for business.

Conditions means the terms and conditions of sale as set out in this document as may be amended from time to time in accordance with clause 13.6.

Contract means the contract between Sino and the Customer for the sale and purchase of the Goods in accordance with these Conditions.

Customer means the person, firm or company who purchases the Goods from Sino.

Force Majeure Event means has the meaning given in clause 11.

Goods means: the items (or any part of them) set out in the Order that are to be supplied to the Customer by Sino.

Intellectual Property means all trade marks, patents, copyright, registered and unregistered designs, topographic rights, know-how and all other forms of intellectual property wherever in the world enforceable.

Order means the order by the Customer for the Goods, as set out in the purchase order form of the Customer.

Specification means any specification for the Goods, including any related Computer- Aided Design (CAD) and drawings that is agreed by the Customer and Sino.

Sino means Sino Manufacturing Solutions Limited (registered in England and Wales with company number 05942184).

1.2 In these Conditions, the following rules apply:

- (a) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (b) A reference to a party includes its personal representatives, successors or permitted assigns.
- (c) A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

- (d) Any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- (e) A reference to **writing** or **written** includes faxes and e-mails.

2. BASIS OF CONTRACT

- 2.1 These Conditions apply to the Contract to the exclusion of any other terms that Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.2 The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions. The Customer shall ensure that the terms of the Order and any applicable Specification submitted by the Customer are complete and accurate.
- 2.3 The Order shall only be deemed to be accepted when Sino issues a written acceptance of the Order, at which point the Contract shall come into existence. No Order may be cancelled in whole or part by the Customer once the Order has been accepted by Sino.
- 2.4 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of Sino which is not set out in the Contract.
- 2.5 A quotation for the Goods given by Sino shall not constitute an offer. A quotation shall only be valid for a period of 28 Business Days from its date of issue.

3. GOODS

- 3.1 The Goods are as described in the Order.
- 3.2 To the extent that the Goods are to be manufactured in accordance with a Specification supplied by the Customer, the Customer shall indemnify Sino against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by Sino in connection with any claim made against Sino for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the use of the Specification by Sino. This clause 3.2 shall survive termination of the Contract.

3.3 Sino reserves the right to amend the Specification of the Goods if required by any applicable statutory or regulatory requirements.

4. DELIVERY

4.1 All Goods will be delivered according to the Incoterms specified on the quotation and confirmed on the Purchase Order (**PO**). The method of delivery and location will be set out in the PO or such other location as the parties may agree (**Delivery Location**) at any time after Sino notifies the Customer that the Goods are ready for delivery, unless otherwise agreed with Sino.

4.2 The method of Goods delivery may be changed at the request of the Customer but additional delivery charges may apply which shall be payable by the Customer immediately upon receipt of an invoice in relation to the same from Sino and in any event before the arrival of the Goods at the Delivery Location.

4.3 Sino shall not accept any claims for damage, mis-delivery, non-delivery or loss in transit unless notice in writing reaches Sino in the case of UK sales, within such time as would enable a claim to be made on the carrier or, in the case of sales outside the UK within 30 days of arrival or anticipated arrival at the port of destination and no responsibility will be accepted by Sino for any failure or delay on the part of the Customer to make a claim on insurance where applicable.

4.4 Delivery of the Goods shall be completed on the arrival of the Goods at the Delivery Location.

4.5 Sino will use its reasonable endeavours to adhere to the delivery or completion dates quoted but any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. Sino shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the failure of the Customer to provide Sino with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods. The Customer shall have no right to damages or to cancel the Order for failure for any cause to meet any quoted delivery and/or completion dates.

4.6 If the Customer fails to take delivery of the Goods within three (3) Business Days of Sino notifying the Customer that the Goods are ready, then, except where such failure or delay is caused by a Force Majeure Event or the failure of Sino to comply with its obligations under the Contract:

- (a) Delivery of the Goods shall be deemed to have been completed at 9:00 am on the third Business Day following the day on which Sino notified the Customer that the Goods were ready;

- (b) All sums due and owing to Sino on delivery will fall due for payment on the date specified in (a) above; and
- (c) Sino shall store the Goods until actual delivery takes place. The Customer shall be solely liable to pay, and will reimburse Sino in full on demand, all related costs and expenses including but not limited to reasonable storage charges, demurrage and/or insurance premiums.

5. QUALITY

5.1 Sino warrants that on delivery the Goods shall and for a period of twelve (12) months from delivery shall:

- (a) Conform in all material respects with their description;
- (b) Be free from material defects in design, material and workmanship; and
- (c) Will correspond with the Specification.

Except that the warranty provided by Sino in relation to any hot runner that forms part of the Goods shall only match and not extend beyond that provided by Sino and/or its affiliates and/or associates and/or suppliers by the manufacturer of the hot runner.

5.2 Subject to clause 5.3, if:

- (a) The Customer gives notice in writing to Sino within 30 days of discovery that some or all of the Goods do not comply with the warranty set out in clause 5.1; and
- (b) Sino is given a reasonable opportunity of examining such Goods;

Sino shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

5.3 Sino shall not be liable for failure of the Goods to comply with the warranty set out in clause 5.1 in any of the following events:

- (a) The Customer makes any further use of such Goods after giving notice in accordance with clause 5.2; or
- (b) The defect arises because the Customer failed to follow the oral or written instructions of Sino as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same; or
- (c) The defect arises as a result of Sino following any drawing, design or Specification supplied by the Customer; or

- (d) The Customer alters or repairs such Goods without the written consent of Sino;
- (e) The defect arises as a result of fair wear and tear, neglect, misuse, wilful damage, negligence, or abnormal storage or working conditions; or
- (f) The Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

5.4 Except as provided in this clause 5, Sino shall have no liability to the Customer in respect of the failure of the Goods to comply with the warranty set out in clause 5.1.

5.5 Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

5.6 These Conditions shall apply to any replacement Goods supplied by Sino.

6. TITLE AND RISK

6.1 The risk in the Goods shall pass to the Customer on completion of delivery in accordance with clause 4.

6.2 Title to the Goods shall not pass to the Customer until Sino has received payment in full (in cash or cleared funds) for:

- (a) The Goods; and
- (b) Any other goods or services that Sino has supplied to the Customer in respect of which payment has become due.

6.3 Until title to the Goods has passed to the Customer, the Customer shall:

- (a) Hold the Goods on a fiduciary basis as the bailee of Sino;
- (b) Store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the property of Sino;
- (c) Not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
- (d) Maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
- (e) Notify Sino immediately if it becomes subject to any of the events listed in clause 9.2; and

- (f) Give Sino such information relating to the Goods as Promold may require from time to time,

But the Customer may use the Goods in the ordinary course of its business.

- 6.4 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 9.2, or Sino reasonably believes that any such event is about to happen and notifies the Customer accordingly, then without limiting any other right or remedy Sino may have, Sino may at any time require the Customer to deliver up the Goods and, if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.
- 6.5 If the Customer shall re-sell any of the Goods before title passes to the Customer, the Customer shall, until such time as the title passes to it, hold the purchase money in trust for Sino and place the same in a separate bank account.

7. PRICE AND PAYMENT

- 7.1 The price of the Goods shall be the price set out in the PO.
- 7.2 Sino may, by giving notice to the Customer at any time before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:
 - (a) Any factor beyond the control of Sino (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs); or
 - (b) Any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or
 - (c) Any delay caused by any instructions of the Customer or failure of the Customer to give Sino adequate or accurate information or instructions.
- 7.3 The price of the Goods is inclusive of the costs and charges of packaging, insurance and transport of the Goods save for any additional delivery charges payable (if requested) which shall be invoiced to and shall be payable by the Customer.
- 7.4 The price of the Goods is exclusive of amounts in respect of value added tax (**VAT**). The Customer shall, on receipt of a valid VAT invoice from Sino, pay to Sino such additional amounts in respect of VAT as are chargeable on the supply of the Goods.

- 7.5 Sino will invoice the Customer for the Goods in instalments with the final instalment falling due for payment on delivery unless otherwise agreed.
- 7.6 The Customer shall pay all invoices in full and in cleared funds within 30 days of the date of the invoice, unless otherwise stated on the PO. Payment shall be made to the bank account nominated in writing by Sino. Time of payment is of the essence.
- 7.7 If the Customer fails to make any payment due to Sino under the Contract by the due date for payment (**Due Date**), then Sino shall have the right to cease production of the Goods and/or withhold any further deliveries until payment is received and the Customer shall pay interest on the overdue amount at the rate of 4% per annum above the base rate of Bank of England from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 7.8 The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against Sino in order to justify withholding payment of any such amount in whole or in part. Sino may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by Sino to the Customer.

8. INTELLECTUAL PROPERTY RIGHTS

- 8.1 All Intellectual Property Rights of any kind and any rights of a similar nature whether registered or unregistered, that may in any way relate to the finished Goods belong to and are the absolute property of the Customer and shall at all material times remain in the sole ownership of the Customer save that any Intellectual Property Rights of any kind and any rights of a similar nature whether registered or unregistered that may in any way relate to any Computer-Aided manufacturing process used in the production of the Goods and/or computer programmes and/or related documentation used in the production of the Goods shall belong to and are the absolute property of Sino and/or the third party that has created and licenced such processes and /or programmes and/or documentation.
- 8.2 The copyright in all documents (including drawings) supplied by the Customer to Sino for the purposes of the Order shall at all times remain the Customers

and in no circumstances whatsoever shall either such documents or their contents be used for any purpose other than that for which they were supplied.

- 8.3 Where any Goods supplied by Sino use, embody, include or contain computer programmes and/or related documentation the copyright or which is owned by a third party, all rights and liabilities associated into the use and/or reproduction thereof will be subject to the terms of the applicable end user licence to the exclusion of all liabilities and obligations on Sino's part.
- 8.4 The Customer will indemnify Sino against all liabilities arising from the infringement of third party intellectual property rights arising from Sino's compliance with the Customer's specific requirements in terms of the design or Specification of the Goods or arising from the use of the Goods in combination with other products.

9. THE CUSTOMER'S INSOLVENCY OR INCAPACITY

- 9.1 If the Customer becomes subject to any of the events listed in clause 9.2, or Sino reasonably believes that the Customer is about to become subject to any of them and notifies the Customer accordingly, then, without limiting any other right or remedy available to Sino, Sino may cancel or suspend all further deliveries under the Contract or under any other contract between the Customer and Sino without incurring any liability to the Customer, and all outstanding sums in respect of Goods delivered to the Customer shall become immediately due.
- 9.2 For the purposes of clause 9.1, the relevant events are:
- (a) The Customer suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or has any partner to whom any of the foregoing apply;
 - (b) The Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than where these events take place for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
 - (c) The Customer is the subject of a bankruptcy petition or order;

- (d) A creditor or encumbrancer of the Customer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- (e) An application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Customer;
- (f) A floating charge holder over the assets of the Customer has become entitled to appoint or has appointed an administrative receiver;
- (g) A person becomes entitled to appoint a receiver over the assets of the Customer or a receiver is appointed over the assets of the Customer;
- (h) Any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 9.2(a) to clause 9.2(g) (inclusive);
- (i) The Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or substantially the whole of its business; and
- (j) The financial position of the Customer deteriorates to such an extent that in the opinion of Sino the capability of the Customer to adequately fulfil its obligations under the Contract has been placed in jeopardy;

9.3 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination. Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

10. LIMITATION OF LIABILITY

- 10.1 Nothing in these Conditions shall limit or exclude the liability of Sino for:
- (a) Death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable); or
 - (b) Fraud or fraudulent misrepresentation; or
 - (c) Breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
 - (d) Any matter in respect of which it would be unlawful for Sino to exclude or restrict liability.

10.2 Subject to clause 10.1:

- (a) Sino shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
- (b) The total liability of Sino to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the total price of the Goods.

11. FORCE MAJEURE

11.1 Neither party shall be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A Force Majeure Event means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.

12. COPYRIGHT AND CONFIDENTIALITY

12.1 Each party undertakes that it shall not at any time disclose to any person any confidential information disclosed to it by the other party concerning the business or affairs of the other party or of any member of its group, including but not limited to information relating to a party's operations, processes, plans, product information, know-how, designs, trade secrets, software, market opportunities and customers (**Confidential Information**), except as permitted by Clause 12.2.

12.2 Each party may disclose the other party's Confidential Information:

(a) To its employees, officers, agents, consultants or sub-contractors (**Representatives**) who need to know such information for the purposes of carrying out the party's obligations under the Conditions, provided that the disclosing party takes all reasonable steps to ensure that its Representatives comply with the confidentiality obligations contained in this Clause 12 as though they were a party to these Conditions. The disclosing party shall be responsible for its Representatives'

compliance with the confidentiality obligations set out in this Clause; and

(b) As may be required by law, court order or any governmental or regulatory authority.

12.3 Each party reserves all rights in its Confidential Information.

13. GENERAL

13.1 Assignment and subcontracting.

- (a) Sino may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
- (b) The Customer may not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of Sino.

13.2 Notices.

- (a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first-class post, recorded delivery, commercial courier, fax or e-mail.
- (b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 13.2(a); if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission.
- (c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

13.3 Severance.

- (a) If any court or competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.

- (b) If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

- 13.4 **Waiver.** A waiver of any right or remedy under the Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

- 13.5 **Third party rights.** A person who is not a party to the Contract shall not have any rights under or in connection with it.

- 13.6 **Variation.** Except as set out in these Conditions, any variation to the Contract, including the introduction of any additional terms and conditions, shall only be binding when agreed in writing and signed by Sino.

- 13.7 **Governing law and jurisdiction.** The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

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